

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

US EPA RECORDS CENTER REGION 5



404042

UNITED STATES OF AMERICA,

Plaintiff,

FRANK J. KELLEY, Attorney General
for the State of Michigan, FRANK J.
KELLEY, ex rel. MICHIGAN NATURAL
RESOURCES COMMISSION, MICHIGAN
WATER RESOURCES COMMISSION, and
RONALD SKOOG, Director of the
Michigan Department of Natural
Resources,

Intervenor-Plaintiffs,

-VS-

BASF WYANDOTTE CORPORATION and
FEDERAL MARINE TERMINALS, INC.,

Defendants.

CIVIL ACTION NO. 80-73699

HONORABLE RALPH B. GUY, JR.

CONSENT DECREE

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Defendants.

CONSENT DECREE

The parties, the United States of America, for the Administrator of the United States Environmental Protection Agency (hereinafter "EPA"), Frank J. Kelley, Attorney General for the State of Michigan, Frank J. Kelley, ex rel. Michigan Natural Resources Commission, Michigan Water Resources Commission, and the Director of the Michigan Department of Natural Resources (hereinafter jointly referred to as "MDNR"), and BASF Wyandotte Corporation (hereinafter "BWC"), by their respective attorneys, having consented to the entry of this Consent Decree,

NOW, THEREFORE, before the taking of any testimony, upon the pleadings, and without admission or adjudication of any

issue of fact or law herein, it is hereby ORDERED, ADJUDGED, AND DECREED as follows:

I. JURISDICTION

This Court has jurisdiction over the parties and subject matter of this action under 28 U.S.C. §1331, 28 U.S.C. §1345, 42 U.S. §6973, and 33 U.S.C. §407. This Court further has pendent jurisdiction of the parties and subject matter of this action with regard to claims under State of Michigan 1929 PA 245, as amended, MCL 323.1 et. seq., the Water Resources Commission Act, and 1970 PA 127, MCL 691.1201 et seq., the Anderson-Rockwell Environmental Protection Act.

II. PARTIES BOUND

This Consent Decree shall apply to and be binding upon the parties to this Consent Decree, their officers, employees, agents, successors and assigns, and upon all persons, firms, subsidiaries and corporations acting under, through or for, or in active concert or participation with the parties in the performance of any obligations hereunder.

III. THE SITE

The property which is the subject of this Consent Decree (hereinafter "the Site") is described in Appendix A. It is located between Bridge Road and Biddle Avenue in Riverview, Michigan and the Trenton Channel of the Detroit River. It is approximately 30 acres in size and is bordered on the north by Firestone Steel Products property and on the south by the City of Riverview boat dock property. BWC purchased the Site in 1951. After transferring title to the Site to Federal

Marine Terminals, Inc. in October, 1979, BWC again became title owner of the Site in June, 1983.

IV. PURPOSE OF THIS CONSENT DECREE

It is the mutual intent and purpose of the parties that BWC shall, at its own and sole expense, control conditions at the Site which could endanger health, welfare, or the environment and take measures to prevent the contamination of water located on, under, and around the Site by industrial wastes located on the Site. In furtherance of such purpose, BWC agrees to undertake the specific activities set forth in Section V. of this Consent Decree.

V. REMEDIAL ACTION PROGRAM

BWC shall accomplish a program of remedial action at the Site, consisting of a site modification program, a monitoring program, and a maintenance program, in accordance with the engineering and construction schedule attached to this Consent Decree as Appendix E, as follows:

A. Site Modification Program

1. Pre-Construction Activities

BWC shall complete the following pre-construction activities with respect to the Site Modification Program by the dates indicated, and within 10 business days after the stated completion date shall certify to EPA and MDNR the accomplishment of these requirements:

(a) On or before March 1, 1984, BWC shall complete the final design of the Site Modification Program.

(b) On or before May 15, 1984, BWC shall complete preparation of bid packages and shall solicit bids for construction of the Site Modification Program.

(c) On or before June 15, 1984, BWC shall award contracts for construction of the Site Modification Program.

(d) On or before June 15, 1984, BWC shall commence construction of the Site Modification Program.

2. Security of Site

BWC shall complete the following activities with respect to Site security by the dates indicated and, within 10 business days after the stated completion date, shall certify to EPA and MDNR the accomplishment of these requirements:

(a) BWC shall, from the date of entry of this Consent Decree, maintain the existing fencing on the Site.

(b) By June 15, 1984, BWC shall install temporary fencing along the Trenton Channel as shown on Appendix D to this Consent Decree.

(c) From the date of entry of this Consent Decree, BWC shall maintain a lock on the entrance gate to the Site located on Biddle Avenue.

(d) Within 30 days after the entry of this Consent Decree, BWC shall install signs every 100 feet around the perimeter of the Site which will state, in not less than 1½ inch high letters, as follows:

**WARNING
KEEP OUT
MANAGED INDUSTRIAL
WASTE DISPOSAL AREA**

One of these signs will be placed on the entrance gate to the Site.

(e) If, due to construction activities on the Site, any existing fencing is removed or damaged, BWC shall provide other means of restricting access to the Site 24 hours per day until the fencing is replaced or repaired.

(f) On or before November 1, 1984, BWC shall provide permanent fencing around the entire Site, as shown on Appendix D. The fencing shall be at least six feet high with three strands of barbed wire on top.

3. Shoreline Stability

On or before October 1, 1984, BWC shall accomplish the measures necessary to ensure the stability of the shoreline of the Site along the Trenton Channel, in accordance with the report dated December 22, 1983, prepared by Williams & Works, which is attached to this Consent Decree as Appendix B. BWC may, at its option, accomplish and maintain such other, more extensive shoreline stability measures for the portion of the shoreline referred to in the Williams & Works report, as may be approved by the United States Army Corps of Engineers upon application by BWC, in lieu of the measures referred to in the Williams & Works report. Within 10 business days after the stated completion date, BWC shall certify to EPA and MDNR the accomplishment of these shoreline stabilization measures.

4. Removal and Disposal of Surface Water

On or before September 15, 1984, surface water on the Site shall be removed by BWC. Such surface water shall be disposed of by BWC by discharge to a publicly-owned treatment works ("POTW"), in accordance with such agreement as may be reached between BWC and the POTW, or by any other legal disposal method. Within 10 business days after the stated completion date, BWC shall certify to EPA and MDNR that the surface water has been removed as required by this paragraph.

5. Initial Site Grading

On or before August 1, 1984, BWC shall complete the following program of initial site grading to create drainage patterns which will prevent the accumulation of water on the surface of the Site so as to allow the surface to dry sufficiently to permit proper placement of additional cover materials.

(a) BWC shall excavate a 100-foot diameter area centered at Dames & Moore boring DMF-1 to natural grade, being approximately 2 feet 6 inches. Excavated materials shall be placed within the areas to be covered with a compacted clay cover, as shown on Appendix D to this Consent Decree. The excavation shall be backfilled with clean earthen materials and compacted as provided in part (b), below.

(b) BWC shall place existing mounds of excavated materials in existing excavations and/or low areas.

BWC shall place additional earthen materials as required to raise the existing grade. Within the areas to be covered with compacted clay this subgrade shall be a minimum of 2 feet 6 inches below final grade. These additional materials shall be placed in 12 inch lifts and compacted. The subgrade surface shall uniformly slope in the direction of established drainage to minimize standing water.

(c) BWC may relocate such material on the Site as is necessary to create drainage patterns, provided that no material shall be moved from the areas to be covered with compacted clay to areas that are not to be so covered.

(d) All materials relocated or added during this initial site grading program shall be compacted to the extent practicable to minimize settlement.

(e) Within ten business days after the stated completion date in this Section V.A.5., BWC shall certify to EPA and MDNR the accomplishment of the initial site grading program.

6. Construction of Berm

On or before September 15, 1984, BWC shall construct a berm on the common property line with Firestone Steel Products to eliminate water flowing onto the Site from the Firestone Steel Products property. The berm may be constructed of asphalt, concrete or compacted earth, at BWC's option, as dictated by actual site conditions. The top of the berm shall be a minimum of 6 inches above the level of the Firestone Steel Products property at the property line.

Within 10 business days after the stated completion date, BWC shall certify to EPA and MDNR that the berm has been constructed as required by this paragraph.

7. Compacted Clay Cover

On or before October 1, 1983, BWC shall place a compacted clay cover on the areas of the Site shown on Appendix D to this Consent Decree in order to minimize the movement of water from the surface of the Site into the ground underlying the areas of the Site to be covered with compacted clay:

(a) The compacted clay cover shall be a minimum of 24 inches in thickness within the areas shown on Appendix D.

(b) The clay material shall meet the requirements for classification as CL or ML under the Unified Soils Classification System as determined by ASTM D-2487-69. BWC shall verify the required soil characteristics before placement and compaction of material. The tests shall be made on a minimum of one sample per 10,000 cubic yards of compacted material placed or when the source of capping material changes.

(c) Compaction shall achieve 1×10^{-7} cm/sec. permeability or less. BWC shall compact the clay cover in lift thicknesses suitable for achieving desired percent compaction, as recommended by BWC's soils consultant, but in no case shall lift thickness exceed 9 inches.

(d) BWC shall develop a soil permeability vs. modified proctor density and moisture content relationship to establish the minimum percent compaction and moisture content range necessary for the clay cover material to achieve the desired permeability. The moisture content range will be expressed as plus and minus the optimum moisture content. BWC shall develop a separate relationship for each source of material. Field proctor density and moisture content tests of clay cover material shall be, at a minimum, one test for each 1,000 cubic yards of compacted clay placed, with no less than one test for each day of operation and per each lift of compacted clay placed. This requirement shall apply to each source of materials. BWC shall establish a density-moisture test grid layout and rotate it with each lift to provide random samples. Redetermination of proctor density of the capping material placed shall be performed whenever the texture of the capping material changes or once for every 5,000 cubic yards of compacted capping material obtained from a single source.

(e) The surface of the compacted clay cover shall uniformly slope in the direction of drainage patterns to minimize standing water. The maximum slope of the surface of the area covered by the compacted clay cover shall be 3:1.

(f) Within 10 business days after the stated completion date in this Section V.A.7., BWC shall certify to EPA and BWC that the compacted clay cover has been constructed in accordance with the requirements of this section .

8. Drainage System

On or before October 1, 1984, BWC shall install a drainage system on the Site which is capable of handling the peak flow from a 25 year, 15 minute intensity storm. The drainage system shall be constructed as shown on Appendix D to this Consent Decree:

(a) The drainage system will be composed of a ditch at the Firestone Steel Products property line, as shown on Appendix D, Alternate #1, or a combination of a concrete ditch and underground piping connecting to an existing 60" sanitary sewer which discharges to the Trenton Channel of the Detroit River, as shown on Appendix D, Alternate #2; a ditch located mid-site in a northwest to southeast direction; existing drainage paths along the western and southern property lines and sheet flow directly to the Trenton Channel. Flow will be directed to the drainage system via swales or sheet flow.

(b) The slope of the drainage ditches and swales will be approximately 0.5%.

(c) BWC may relocate, without prior EPA or MDNR approval, any drainage ditch or swale up to 50 feet in any direction based on Site conditions. Such relocation shall not hinder water flow or create any standing water.

(d) Selected inverts, as shown on Appendix D, will be lined with four inches of gunited concrete and reinforced with welded wire fabric. This lining shall extend

a minimum of 12 inches up the side slope. Ditch profile shall be flat bottomed with sides at a maximum 3:1 slope.

(e) The remaining drainage inverts and side slopes shall be constructed of compacted clay and topsoil in the areas covered with compacted clay or with compacted soils in areas not covered by compacted clay. Ditch profile shall be rounded. Surfaces shall be seeded and mulched.

(f) BWC may submit for approval to EPA and MDNR, prior to commencement of or during construction, proposed modifications to the drainage system, which modifications, if approved, may be implemented in place of the drainage system, or parts thereof, specified in this Section and on Appendix D. These modifications may include a proposal to use certain existing drainage systems on the Site constructed by Federal Marine Terminals, Inc. in lieu of certain of the drainage systems specified in this Section and on Appendix D.

(g) Within 10 business days after the stated completion date in this Section V.A.8., BWC shall certify to EPA and MDNR that the drainage system has been constructed in accordance with the requirements of this Section.

9. Final Grading, Topsoil and Vegetative Cover

By the dates indicated, BWC shall accomplish final grading of the Site, shall apply clay-loam topsoil to the Site, and shall plant a vegetative cover on the Site in order to prevent erosion, to promote evapotranspiration and to prevent standing water on the Site, all as provided hereafter.

"Final grade" means final vegetated surface grade. "Vegetative cover" means the species of that population of plants planted by BWC and found on the majority of the Site. An area of "standing water" is an area where water stands for a sufficient time and at a sufficient depth that the vegetative cover will not grow or dies:

(a) On or before November 15, 1984, BWC shall complete final grading of the Site. The final grade shall be as shown on Appendix D of this Consent Decree and shall be at a slope of no less than two percent, with a tolerance of plus or minus 6 inches per 100 feet, over the areas of the Site covered by compacted clay. The areas of the Site not covered by compacted clay shall be graded to fill minor depressions and to improve drainage patterns on their existing slope. All filled depressions shall be compacted to minimize future settling. The existing slope shall be maintained, as a minimum, over the areas not covered by compacted clay or as long as the existing slope prevents standing water. "Existing slope" means the slope in place on the date of entry of this Consent Decree. BWC may adjust the final contour lines to satisfy actual field conditions so long as it maintains the minimum slopes required by the Consent Decree.

(b) On or before November 1, 1984, BWC shall cover the areas of the Site covered by compacted clay with a nominal (± 1 ") 6 inches of clay-loam topsoil, and shall cover the remaining areas of the Site with clay-loam topsoil as needed to support permanent shallow-rooted vegetation.

(c) On or before November 15, 1984, BWC will plant, and thereafter maintain, shallow-rooted vegetation on all areas of the Site. The Site will be seeded, mulched and fertilized based upon recommendations from the applicator. The vegetative cover shall be of a type having a root system that will not penetrate through the compacted clay cover. BWC may permit deep-rooted vegetation to grow on those areas of the Site that are 5 yards or more from the compacted clay cap.

(d) Within 10 business days after the stated completion dates of this Section V.A.9., BWC will certify to EPA and MDNR that final grading, placement of clay-loam topsoil and planting of vegetation have been completed in accordance with the requirements of this Section.

10. Miscellaneous Provisions

(a) Cleaning of Vehicles

BWC shall keep all vehicles which use public roads segregated from those used for excavation and grading of existing materials of the areas to be covered with compacted clay. Vehicles that come into contact with such materials shall be cleaned prior to being removed from the areas to be covered with compacted clay. Each such vehicle shall be scraped and washed to remove accumulated earth and debris from the surfaces and tires of such vehicles. BWC shall collect soils and washwater from the cleaning of vehicles and shall dispose of them either on-site, as approved by EPA or MDNR Field representatives, or at other legal disposal sites.

(b) Air Monitoring and Dust Suppression

(i) BWC shall complete the excavation of the 100-foot diameter area centered at Dames & Moore boring DMF-1 and the manipulation of existing material on the areas to be covered with compacted clay, as required by Sections V.A.5.(a) and (b) of this Consent Decree, within a period totalling 80 hours of work or less. If this work exceeds 80 hours in duration, BWC shall install five high volume air monitors at locations approved by EPA and MDNR. Each monitor shall be operated 24 hours a day until the work in the area is completed. The analytical results of the samples shall be reported to EPA and MDNR within forty-eight (48) hours of sample collection, excluding weekends. BWC shall analyze the samples for mercury, arsenic, total suspended particulates, polychlorinated biphenyls, polynuclear aromatic hydrocarbons and pentachlorophenol.

(ii) EPA and MDNR field representatives may require BWC to employ dust suppression measures when climatic conditions or activity on site result in excessive windborne suspended particulates. BWC shall implement a temporary dust suppression program immediately upon a request to do so from EPA or MDNR field representatives. The dust suppression program shall provide for treatment of roads and other potential dust sources on site with water or calcium chloride as a dust suppression material. The program may be discontinued only by mutual agreement between BWC and the EPA and MDNR field representatives.

(c) Erosion Control Measures

BWC shall install and maintain temporary erosion control devices, such as straw bales or fabric filters, to retain disturbed material on the Site during earth-moving activities. Prior to completion of initial grading, any eroded materials from the areas to be covered with compacted clay, and any temporary devices used to control erosion from such areas, shall be returned for disposal to the areas to be covered with compacted clay or sent to an approved disposal facility. Eroded materials and control devices from areas other than those covered by compacted clay, and, after completion of initial grading, materials and devices from those areas as well, shall be disposed of in accordance with the Michigan Soil Erosion and Sedimentation Control Act and rules issued thereunder. Sediments or sludges, which meet the criteria of RCRA as a hazardous waste, removed from or incidental to the control or treatment of the surface water discharged, shall be disposed of in the same manner as the eroded materials from the areas to be covered with compacted clay.

B. On-site Monitoring Program

BWC shall install a system of monitor wells on the Site and shall undertake a program for sampling and analysis of water taken from the wells in accordance with the following requirements:

1. Installation of Monitor Wells

On or before March 1, 1985, BWC shall install monitor wells at the nine locations shown on Appendix D to this Consent Decree or within 50 feet of those locations, depending on field conditions.

(a) Monitor wells 1, 2, 3, 4 and 5 are intended to serve as perimeter wells. Monitor wells 6, 8, and 9 are intended to provide information concerning those areas of the Site under the compacted clay cover. Monitor well 7 is intended to serve as an upgradient observation well. BWC shall complete monitor well 7 as shown on Appendix D. If attempts to place monitor well 7 within a 50 foot radius do not provide access to a saturated zone, BWC, with the approval of the EPA and MDNR field representatives, may complete monitor well 7 in an alternate location.

(b) BWC shall drill holes for the monitor wells into the interface between the soil, fill, or overburden and the clay or underlying impervious zone. The monitor wells shall be installed in a test hole drilled by a hollow stem auger. Visual observation of the cuttings shall be used to determine the location of the interface with the impervious zone. BWC shall allow a minimum of three days for water to rise and stabilize in the wells. When BWC finds the water level in a well to be more than six feet above the interface surface between the soil, fill, or overburden and the clay or underlying impervious zone, BWC shall complete a second, more shallow well nearby.

(c) BWC shall complete each monitor well by installation of a screen and riser pipe having a nominal size of two inches. The screens shall be stainless steel and 18 inches in length. The slot size will be selected by BWC. The screen section will be set one to two feet above the interface with the impervious zone described in (b), above. In the case of the shallow wells described in (b), above, the top of the screen section will be set at one to two feet below the water level established by that section. The annular space will be filled with well sand to 12 inches above the screen section. The sand will be followed by 12 inches of pelletized bentonite. The remainder of the annular space will be filled to grade with dry concrete. The riser pipe will be cut off at least 12 inches above grade and a protective cover with a vented locking cap will be installed. The surface around the cover pipe will be locally crowned to prevent standing water. Wells will be developed using currently acceptable methods, consistent with Appendix C. Keys for the locking cap shall be maintained at the offices of BWC at 1609 Biddle Avenue, Wyandotte, Michigan.

(d) For each monitor well, BWC shall determine the elevation of the top of the riser pipe to ± 0.01 feet, based on a local benchmark. BWC shall also install a suitable stilling well at the shore of the Trenton Channel of the Detroit River to allow the determination of the relative elevation of the surface of the Trenton Channel to the water in the monitor wells.

2. Sampling and Analysis Schedule

Commencing on or about June 1, 1985, BWC shall undertake a program for the sampling and analysis of water from the monitor wells, according to the following schedule:

(a) For the first 3 years following commencement of the sampling and analysis program, BWC shall take samples from each of the monitor wells every 90 days, plus or minus 30 days, and shall analyze each sample for those parameters listed in Section V.B.4. of this Consent Decree.

(b) Following the completion of the 3 year program referred to in (a), above, BWC shall, for the next 2 years, take samples from all monitor wells once each year and shall analyze each sample for the parameters listed in Section V.B.4. of this Consent Decree. In addition to these samples, BWC shall also during this 2 year period take samples twice each year from certain monitor wells to be designated by MDNR and shall analyze two composites of those samples for the same parameters. MDNR shall designate the monitor wells from which the samples are to be taken within 60 days of a request by BWC for such designation.

(c) Following the completion of the 2 year program referred to in (b), above, and continuing for the remaining 25 year period covered by this Consent Decree, BWC shall continue to take composite samples twice each year from monitor wells to be designated by MDNR pursuant to (b), above, and shall analyze the composite samples for those chemicals

listed in Section V.B.4. of this Consent Decree as are designated by MDNR.

3. Sampling Procedures

BWC shall sample the monitor wells in accordance with the following procedures:

(a) BWC shall determine the elevation of the water level in each monitor well and of the Trenton Channel of the Detroit River to ± 0.01 feet before the collection of samples from those wells. These measurements shall be made each time the wells are to be sampled according to the schedule in this Consent Decree.

(b) Sampling will be accomplished by inserting the inlet of a submersible pump as deep as possible within the screened section. The sampling equipment will be rinsed with acetone (reagent grade) followed by distilled water prior to each use.

(c) The monitor wells will be sampled by removing only the quantity of water necessary for the required analyses, after flushing the pump and discharge tubing with formation water. If the volume of water obtained is insufficient to permit analysis for all the parameters referred to in Section V.B.4.(a), whatever volume of water is obtained will be analyzed to the extent practicable. If there is an insufficient volume of water, after continuous pumping for a period of 10 minutes, such that none of the analyses in Section V.B.4. can be performed, that well shall be deemed a "dry hole" for that sample period.

4. Analytical Procedures

BWC shall analyze the samples from the monitor wells in accordance with the following procedures and shall submit the results, along with the relative elevations obtained pursuant to Section V.B.2.(a) of this Consent Decree, in a report to EPA and MDNR within 30 days after the completion of any analysis:

(a) BWC shall analyze all the samples taken from the monitor wells for pentachlorophenol, benzo(a)pyrene, naphthalene, polychlorinated biphenyls, mercury, and arsenic.

(b) BWC shall use the following analytical methods: For pentachlorophenol, Method 604; for benzo(a) pyrene and naphthalene, Method 610; for polychlorinated byphenyls, Method 608. All the above methods are set forth in the Federal Register, Vol. 44, No. 233, dated December 3, 1979 and revised in July, 1982 (USEPA 600/4-82-057). For mercury and arsenic, BWC shall use the methods promulgated in 40 CFR, Part 136.

(c) BWC shall report all analytical results above the level of quantification as whole numbers.

(d) All reports submitted in compliance with this Section V.B.4. shall be signed and certified by BWC's Director of Corporate Environmental Protection.

5. Modification of Sampling and Analysis Program

Notwithstanding the foregoing requirements of Section V.B., BWC may, after three (3) years, discontinue sampling of any well when that well produces an insufficient

quantity of water for all analyses for six (6) consecutive sampling periods. BWC may discontinue the analysis of any parameter for any well when the results are less than the level of quantification for six (6) consecutive sampling periods. BWC shall notify EPA and MDNR sixty (60) days in advance of its intent to discontinue any sampling or analyses. If, as the result of an independent analysis by EPA or MDNR of a sample from any discontinued well or other well yields results greater than the level of quantification for a discontinued parameter, EPA or MDNR may require that BWC reinstitute analysis for that parameter in that well. It is understood by BWC, EPA and MDNR that nothing in this section V.B.5. shall affect BWC's obligation to conduct the sampling and analysis program set forth in Section V.B.2.(c) of this Consent Decree.

6. Sampling of Storm Water Runoff

After completion of the remedial actions described in Section V. of this Consent Decree, MDNR may sample the storm water runoff and other water collecting in the drainage system installed in compliance with Section V.A.7. of this Consent Decree and discharging to the Trenton Channel. The ditch or ditches may be sampled and analyzed by MDNR for parameters and methods of determining whether any future actions will be required to control stormwater discharge.

C. Inspection and Maintenance Program

BWC shall undertake a program for the inspection and maintenance of the remedial measures accomplished on the Site pursuant to Section V.A. of this Consent Decree, as follows:

1. Maintenance of Site Modifications

For 30 years after completion of the Site Modification Program set forth in Section V.A., BWC shall maintain the site modifications described in that Section. This maintenance program shall include, but is not limited to, the following:

(a) BWC shall maintain all fencing, warning signs and locks at the Site.

(b) BWC shall maintain the integrity of the vegetative cover on the Site, which shall include replanting and mowing, as needed. BWC shall maintain the areas covered by the compacted clay and those areas on the site within 5 yards of the compacted clay cap free of deep-rooted vegetation. BWC may allow deep-rooted vegetation to grow on areas of the Site which are at least five yards beyond any area covered by compacted clay.

(c) On those areas of the Site covered by compacted clay, BWC shall remove vegetation that may impair the effectiveness of the compacted clay cover, shall remove standing water and modify the slope of the cover as needed to prevent standing water, and shall repair the compacted clay cover to correct the effects of settling, subsidence, erosion, frost-heaving or other events.

(d) BWC shall maintain the drainage system on the Site. If a drainage pattern is desired by BWC different than that constructed pursuant to Section V.A.8. of this Consent Decree, BWC shall submit a plan to EPA and MDNR for approval setting forth the design and specifications and a schedule for constructing the alternative drainage pattern. No alterations to the drainage system may be made which would reduce the thickness or increase the permeability of the compacted clay cover or which would interfere with maintenance of the vegetative cover. Upon approval of the plan by EPA and MDNR, BWC may construct the alternative drainage pattern.

(e) BWC shall maintain the integrity of the berm referred to in Section V.A.6. of this Consent Decree. The top of the berm will be maintained at a minimum height of 6 inches above the level of the Firestone Steel Products property at the property line. In the event BWC should choose to initially construct the berm of compacted earth, but such construction should prove to be inadequate, BWC shall reconstruct the berm.

(f) BWC shall maintain the shoreline stability measures accomplished in accordance with Section V.A.3. of this Consent Decree.

2. Inspection Schedule

For 2 years after the completion of the Site Modification Program described in Section V.A. of this Consent Decree, BWC shall inspect the Site once every three

months. For the next 28 years, BWC shall inspect the Site once every Spring and once every Fall. These inspections shall include, but are not necessarily limited to, a review of the following items:

(a) The fencing and signs installed pursuant to Section V.A.2.

(b) The integrity of the shoreline stability measures implemented pursuant to Section V.A.3.

(c) A check for areas of standing water on the Site, and of the integrity of the vegetative cover, as referred to in Section V.A.9.

(d) The integrity of the berm constructed in accordance with Section V.A.6.

(e) The integrity of the compacted clay cover constructed in accordance with Section V.A.7.

(f) The integrity of the drainage systems constructed in accordance with Section V.A.8.

(g) A check for evidence of erosion.

(h) A check for the integrity of the monitor wells.

3. Inspection Reports and Records

(a) Within 14 days after each inspection, BWC shall submit a report to EPA and MDNR setting forth the results of such inspection. If any maintenance measures as described in 1, above, are needed, the report shall so state and shall set forth in detail the maintenance measures to be

undertaken by BWC and a schedule for accomplishing such measures.

(b) BWC shall maintain complete records of inspections for a period of 3 years following the inspection. These records shall be kept in the office of the General Works Manager at 1609 Biddle Avenue, Wyandotte, Michigan. The inspection records shall include the date of each inspection and the name of the inspector. BWC shall make these records available to authorized EPA and MDNR representatives during normal business hours.

D. Certification of Completion by BWC

On or before July 1, 1985, BWC shall provide to EPA and MDNR a final certification that the Site Modification Program described in Section V.A. of this Consent Decree and the monitor wells described in Section V.B.1. have been completed in accordance with the requirements of this Consent Decree.

VI. APPROVALS; NOTICE OF DISAPPROVAL
OR INADEQUACY

A. Approvals

The approval of any proposed action, or of any certification, report, information or data submitted by BWC to EPA or MDNR pursuant to this Consent Decree, shall be effective either upon written notice to BWC or upon the expiration of a period of sixty (60) days from the receipt of notice of the proposed action or of such certification, report, information or data by EPA or MDNR, whichever shall occur earlier. The

60 day period may be extended upon agreement among BWC, EPA and MDNR.

B. Notice of Disapproval or Inadequacy

Except for those actions referred to in Section XII. of the Consent Decree, in the event EPA or MDNR should disapprove or find inadequate any proposed action, or any certification, report, information, or data submitted by BWC under this Consent Decree, they shall provide written notice thereof to BWC within 60 days of receipt of notice of a proposed action or of such certification, report, information or data, which notice shall include:

1. A detailed statement of the bases for EPA's or MDNR's conclusion or request;

2. A description of what further action in their opinion is required to fulfill or effectuate any provisions of this Consent Decree, such description to include, without limitation, the need for verification of data or for obtaining additional data or for implementing specified actions; and

3. A proposed schedule for submission of any additional information.

It is the intent of the parties that this notice fully set forth and describe any disapproval or finding of inadequacy and the bases therefore; however, an insufficiency in the notice shall not be deemed a waiver by EPA and MDNR of any such disapproval or finding of inadequacy.

C. Submission to Court

In the event an agreement cannot be reached among BWC, EPA and MDNR concerning EPA's or MDNR's disapproval or finding of inadequacy, BWC shall, within 45 days after receipt by it of the notice of disapproval or inadequacy, file a petition with the Court setting forth the matter in dispute. In any proceedings on such Petition, BWC shall have the burden of persuasion by a preponderance of the evidence.

D. Resolution of Disputes During
Course of Site Modification Program

In the event a dispute should arise between BWC and EPA or MDNR during construction of the Site Modification Program, BWC shall, upon demand by EPA or MDNR, stop construction and shall, unless the dispute is resolved, file a petition with the Court setting forth the matter in dispute. In any proceeding on such Petition, BWC shall have the burden of persuasion by a preponderance of the evidence.

VII. DELAY IN PERFORMANCE

EPA and MDNR recognize that BWC's agreement to accomplish the requirements of Sections V.A. and V.B. of the Consent Decree by the stated completion dates is based upon the timing and sequence of events referred to in those sections and as shown on the Engineering and Construction Schedule attached to this Consent Decree as Appendix E. If any event occurs which delays or could delay the timely achievement of the requirements of this Consent Decree, BWC shall notify EPA

and MDNR within three days in writing of the delay or anticipated delay as appropriate, describing in detail the anticipated length of the delay, the cause or causes of delay, the measures taken and to be taken by BWC to prevent or minimize the delay, the schedule by which these measures will be implemented, and requesting approval of a revised schedule. If the delay or anticipated delay has been or will be caused by circumstances beyond the reasonable control of BWC, the time for performance hereunder shall be extended for a reasonable period of time as is appropriate under the circumstances, provided that an extension of the time for performance of one event shall not necessarily entail an extension of the time for performance of subsequent events. Increased costs of performance of the requirements of this Consent Decree shall not be circumstances beyond the reasonable control of BWC justifying an extension in the time for performance. In the event EPA or MDNR disapprove BWC's request for a delay in performance, BWC may promptly submit the matter to this Court for resolution in accordance with Section VI.C.

VIII. STIPULATED PENALTIES

Unless excused by the provisions of Section VII. of this Consent Decree or modified by the Court pursuant to Section VI.C., BWC shall pay stipulated penalties for any failure to comply with the scheduled completion dates for the events set forth in Part B of this Section VIII.

A. Amount of Stipulated Penalties

1. Upon demand, BWC shall pay the United States \$500.00 per day for each of the first 30 days of non-compliance and \$1,000.00 per day of non-compliance thereafter. The stipulated penalties shall be paid by certified check made payable to the Treasurer of the United States.

2. Upon demand, BWC shall pay to the State of Michigan \$500.00 per day for each of the first 30 days of non-compliance and \$1,000.00 per day of non-compliance thereafter. The stipulated penalties shall be paid by certified check made payable to the Attorney General of the State of Michigan and mailed to the Environmental Protection Division, Department of Attorney General.

3. The stipulated penalties set forth above shall be in addition to any other remedies or sanctions which may be available to EPA or MDNR by reason of BWC's failure to comply with the requirements of this Consent Decree.

B. Events Subject to Stipulated Penalties

BWC shall be liable for payment of stipulated penalties only for failure to complete the following requirements by the stated completion dates:

<u>Event</u>	<u>Completion Date</u>	<u>Consent Decree Reference</u>
Awarding of contracts	June 15, 1984	§V.A.1.(c)
Completion of final grading	November 15, 1984	§V.A.9.(a)

Seeding and mulching
of shallow-rooted
vegetation

November 15, 1984 §V.A.9.(c)

Commencement of
monitoring and
sampling program

June 1, 1985 §V.B.2.

Final certification
that all work
required under Section
V of Consent Decree
is completed

July 1, 1985 §V.D.

IX. COORDINATION AND NOTIFICATION

A. Designation of Coordinator

The parties shall designate a coordinator and an alternate within 15 days following entry of this Consent Decree. At any time, the parties may appoint new coordinators, alternates or both and shall so advise the other parties in writing. To the maximum extent possible, communications between the parties shall be made between coordinators. Whenever, pursuant to this Consent Decree, a report, notice, approval or other document is required to be forwarded by one party to another, it shall be sent by certified or registered mail, return receipt requested, to the attention of the coordinators at the addresses specified below.

To EPA: Waste Management Division
United States Environmental
Protection Agency - Region V
230 S. Dearborn Street
Chicago, Illinois 60604

To MDNR: Director
Michigan Department of Natural Resources
Box 30028
Lansing, Michigan 48909

To BWC: Director of Corporate Environmental
 Protection
 BASF Wyandotte Corporation
 100 Cherry Hill Road
 P.O. Box 181
 Parsippany, New Jersey 07054

B. Designation of Field Representatives

EPA and MDNR shall each designate a field representative and an alternate within 15 days following entry of this Consent Decree. The field representatives shall have authority to act on behalf of EPA and MDNR on matters relating to sitework, measurements during construction, and compliance with specifications. The EPA and MDNR field representatives shall be available for consultation during construction activities, which activities will be scheduled by BWC and its contractors. In the event of a disagreement among the BWC project manager and the EPA and MDNR field representatives, the matter shall be referred to the coordinators for resolution. In the event the matter is not resolved by the coordinators, BWC shall file a petition with the Court in accordance with Section VI.C. of this Consent Decree.

C. Notice of Commencement of Construction

BWC shall provide written notice to the EPA and MDNR coordinators and to the Attorney General of Michigan at least seven days prior to the commencement of construction of the Site Modification Program set out in Section V.A. Subsequent notice of construction activities shall be based upon an agreement reached between the BWC project manager and the EPA and MDNR field representatives.

X. INFORMATION

All data, information and other documents in the possession of BWC and not privileged, which relate to obligations undertaken by BWC pursuant to this Consent Decree, shall be provided by BWC to EPA and MDNR upon request in conformance with 40 CFR Part 2 and applicable Michigan law, respectively. Documents or information entitled to confidentiality under 18 U.S.C. 1905 and applicable Michigan law shall be disclosed only in accordance with the confidentiality regulations of 40 CFR Part 2 and of such Michigan law and any rules issued thereunder.

XI. ACCESS TO SITE

A. Access by EPA and MDNR Representatives

BWC shall permit the EPA and MDNR field representatives, and such other agency employees, contractors and consultants as the field representatives require to assist them in their duties under this Consent Decree, to enter the Site at all times. The field representatives and the persons assisting them shall at all times observe Michigan OSHA, OSHA, NIOSH, and EPA rules.

B. Taking of Samples

BWC, EPA, or MDNR may take any samples from the surface or underground. Such samples shall be split with the other parties upon request. Any analysis not covered by Section V.B.3. and 4. shall be conducted in accordance with then-currently applicable laws, regulations or such other analytical

procedures as may be provided to BWC by EPA or MDNR at the time the samples are taken or as soon thereafter as the analytical procedures are decided upon.

C. No Limitation on Entry

Nothing in this Consent Decree is intended to limit in any way the right of entry or inspection or sampling of EPA and MDNR that they may otherwise have by operation of any law.

XII. NOTICE; TRANSFER OR CONVEYANCE
OF INTEREST IN PROPERTY; NEW USE-

A. Notice

Within fifteen (15) days after approval and entry of this Consent Decree by the Court, BWC shall file the Restrictive Covenants referred to in Section XII.B. of this Consent Decree together with a copy of the Consent Decree with the Register of Deeds for Wayne County, Michigan.

B. Transfer or Conveyance of
Interest in Property

The Site, or any ownership, leasehold or other interest therein, may be freely transferred or conveyed by BWC, provided that such transfer or conveyance does not have a material adverse effect on the fulfillment of the purpose of this Consent Decree as stated in Section IV. At least sixty (60) days prior to the date of such transfer or conveyance, BWC will give written notice thereof to EPA and the Attorney General of Michigan. Such Notice shall recite the provisions of this paragraph, identify the person or entity to whom such transfer or conveyance is to be made, together with a description

of which, if any, of BWC's responsibilities under this Consent Decree shall be assumed by such person or entity. BWC shall require the person or entity to whom such transfer or conveyance is to be made to provide the EPA and MDNR a certification of net worth as provided in Section XIII.B.2. of this Consent Decree. In lieu thereof, such person or entity may at the time of notice provide a commitment or binder for a performance bond, a letter of credit, a guaranty, or other security sufficient for the performance of the obligations assumed by such person or entity, or may provide documentation and other information, satisfactory to EPA and MDNR, demonstrating that such person or entity is capable of fulfilling such obligations. A copy of the performance bond, letter of credit, guaranty or other security, shall be provided to EPA and MDNR at or prior to any closing of the transfer or conveyance. BWC may proceed with such transfer or conveyance unless, within sixty (60) days following notification to them, the United States or the State of Michigan files a Petition with the Court objecting to such transfer or conveyance on the grounds that it would have a material adverse effect on the fulfillment of the purpose of this Consent Decree. Such Petition shall describe the basis for such objections. The Court may then proceed to make a determination on the issues raised by such Petition.

In the event an interest in the Site is transferred or conveyed by BWC or its successors in interest in the site (hereinafter collectively referred to as "BWC"), BWC may

request that it be released from those responsibilities under this Consent Decree. Upon the written approval of the Attorney General of Michigan and the Assistant Attorney General, Land and Natural Resources Division, United States Department of Justice, such approval not to be unreasonably withheld, BWC may be released from those responsibilities under this Consent Decree that are assumed by the person or entity to whom the interest in the Site is transferred or conveyed. The Michigan Attorney General and the Assistant Attorney General, Land and Natural Resources Division, United States Department of Justice, shall promptly respond to a written request for approval pursuant to this paragraph and such approval shall not be unreasonably withheld. Until such time as the Attorney General of Michigan and the Assistant Attorney General, Land and Natural Resources Division, United States Department of Justice, give such written approval, BWC shall remain liable for the performance of all of the requirements of this Consent Decree. BWC shall file with the Wayne County Register of Deeds restrictive covenants with respect to the Site, in the form attached hereto as Appendix F. Nothing in such restrictive covenants shall be deemed to either extend or limit the responsibilities of BWC or its successors or assigns under this Consent Decree. In the event the Consent Decree is modified by the parties or by the Court, BWC shall file amended restrictive covenants reflecting such modification.

C. New Use

A new use of the Site may be approved in accordance with the provisions of this paragraph, provided that such new use does not have a material adverse effect on the fulfillment of the purpose of this Consent Decree, as stated in Section IV. "New use" is defined to mean any excavation, construction or other activity which would change the surface of the Site. No new use shall be effectuated except in accordance with the following procedures. At least sixty (60) days prior to such new use, BWC (or such other person or entity, as the case may be) shall give written notice to EPA and MDNR of such new use and a description of the proposed modification or elimination of any ongoing responsibilities under this Consent Decree and a written demonstration that such new use will be instituted and carried out in a manner consistent with the purposes of this Consent Decree. This notice shall state when an answer is requested (but in any event not less ^a than in 60 days) and the reasons therefore and shall fully described the new use. BWC (or such other person or entity) shall after sixty (60) days following such notification file a petition with the Court to modify the Consent Decree. The United States and the State of Michigan shall stipulate to such modification or file a response objecting on the grounds that the new use would interfere with the achievement of the purpose of this Consent Decree. The response shall fully describe the basis for such objection. The Court may then proceed to make a

determination on the issues raised by the petition, response or stipulation.

XIII. FINANCIAL RESPONSIBILITY

A. Funding of Capital Expenditures

BWC shall fund all capital expenditures and pay all expenses necessary to accomplish the measures set forth in Section V. of this Consent Decree except that BWC shall not reimburse EPA or MDNR for any of their expenses in connection with this Consent Decree, other than those provided for in Section XV.

B. Certification of Net Worth

1. Upon entry of this Consent Decree with the Court, BWC shall submit to EPA and MDNR either a statement certified by its chief financial officer that its net worth is not less than Twenty Million (\$20,000,000) Dollars or a copy of its financial statements for the fiscal year last ended, showing a net worth of not less than \$20,000,000. If at any time prior to the completion of the Site Modification Program described in Section V.A., BWC's net worth decreases to below Twenty Million (\$20,000,000) Dollars, BWC shall immediately notify EPA and MDNR and shall promptly provide security in an amount sufficient for the performance of BWC's obligations hereunder through the completion of construction. Such security may take the form of a performance bond, a letter of credit, the guaranty of a corporation having a net worth of not less than Twenty Million (\$20,000,000) Dollars, or such

other form of security to which the parties may hereafter agree.

2. If, subsequent to the completion of construction, but prior to the termination of BWC's other obligations under this Consent Decree, BWC's net worth decreases to below Ten Million (\$10,000,000) Dollars, BWC shall immediately notify EPA and MDNR, and shall promptly provide security in an amount sufficient for the performance of BWC's remaining obligations under this Consent Decree. Such security may take the form of a performance bond, a letter of credit, the guaranty of a corporation having a net worth of not less than Ten Million (\$10,000,000) Dollars, or such other form of security to which the parties may hereafter agree.

XIV. SETTLEMENT, RELEASES, AND EFFECT OF THIS CONSENT DECREE ON OTHER LAWS AND THIRD PARTIES

A. All Work to be Done in Accordance With Applicable Laws and Regulations

All work undertaken by BWC pursuant to this Consent Decree is to be performed in accordance with all federal, state and local statutes, regulations and ordinances including, but not limited to, the Occupational Safety and Health Act, 29 U.S.C. 651 et seq, Clean Water Act, 33 U.S.C. 1251, et seq., the Waters Resources Act, 1929 PA 245, as amended, MCL 323.1 et seq, and the Anderson-Rockwell Environmental Protection Act, 1970 PA 127, MCL 691.1201 et seq: All handling, generation, transportation, storage, treatment or disposal of hazardous waste from the Site shall

be in compliance with the provisions of the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq.

B. No Admissions

This Consent Decree represents a compromise of disputed issues and facts and BWC expressly makes no admission of fact or liability concerning any acts or liabilities asserted against it in this action. Nothing contained in this Consent Decree shall be deemed an admission of fact or liability or evidence of same, nor of any violation of law or regulation.

C. Rights of Third Parties Not Affected

This Consent Decree shall neither create nor affect rights of persons or entities who are not parties to this Consent Decree and who are not described in Section II. of this Consent Decree.

D. No Waiver of Claims Against Third Parties

Neither the United States of America nor the State of Michigan waive any claims or rights they may have against any person or entity not a party to this Consent Decree.

E. Release

The accomplishment of the requirements of this Consent Decree shall constitute full settlement of the civil claims asserted or which could have been asserted on behalf of EPA by the Plaintiff United States or on behalf of MDNR by the Intervenor-Plaintiff, Frank J. Kelley, Frank J. Kelley ex rel, Michigan National Resources Commission, Michigan Water Resources Commission and Ronald Skoog, Director of the Michigan Department of Natural Resources, in this action and

shall constitute a full discharge and release of BWC, its subsidiaries, parent companies, predecessors, affiliates, successors and assigns, and its and their officers, directors, agents and employees from any civil liability (whether for fines, penalties, damages, reimbursement, or other legal, equitable or administrative relief) up to the date of entry of this Consent Decree, resulting from or in any way relating to the facts and conditions alleged in the Complaint or the Complaint in Intervention. The United States and the State of Michigan specifically retain the authority to enforce the terms of this Consent Decree. Nothing herein will bar the United States of America and the State of Michigan from seeking or obtaining any further relief from BWC for claims arising after entry of this Consent Decree.

XV. COSTS

Within fifteen (15) days after entry of this Consent Decree, BWC shall pay the State of Michigan, c/o Chief, Environmental Protection Division, Department of the Attorney General, the sum of \$100,000.00 for its past and future costs. Each other party to this Consent Decree shall bear its own costs in this action and in the implementation of this Consent Decree.

XVI. PUBLIC NOTICE

The parties agree and acknowledge that final approval and entry of this proposed Consent Decree is subject to the requirements of 28 C.F.R. §50.7. That regulation provides

Appendix F

Restrictive Covenants Running With The Land

KNOW ALL PERSONS BY THESE PRESENTS:

That BASF Wyandotte Corporation, a Michigan corporation with principal offices located at 100 Cherry Hill Road, Parsippany, New Jersey 07054, has entered into a Consent Decree in the case of United States of America, Plaintiff and Frank J. Kelley, ex rel, Michigan Natural Resources Commission, Michigan Water Resources Commission and Ronald Skoog, Director of the Michigan Department of Natural Resources, Intervenor Plaintiffs, vs. BASF Wyandotte Corporation and Federal Marine Terminals, Inc., Defendants, United States District Court for the Eastern District of Michigan Civil Action Number 80-73699, for the purpose of settling such litigation. A copy of this Consent Decree is attached to these Restrictive Covenants as Exhibit A, and is incorporated herein by reference.

The purpose of the Consent Decree is to control conditions at the following described premises which could endanger health, welfare, or the environment and to take measures to prevent the contamination of water located on, under and around such premises by industrial wastes located thereon:

Land located in the City of Riverview, County of Wayne and State of Michigan described as:

1. A parcel of land located in Fractional Section 5 , Town 4 South, Range 11 East, described as: Beginning at the point of intersection of the Easterly line of Riverview Drive, 86-feet, wide and the Easterly line of River Road, 106-feet wide, and proceeding thence along the Easterly line of Riverview Drive, South 0 degrees 37 minutes 40 seconds East 518.57 feet; thence South 30 degrees 21 minutes 20 seconds East 61.78-feet; thence South 71 degrees 37 minutes 10 seconds East 792.28-feet to a point on the United States Harbor Line; thence North 31 degrees 41 minutes 30.4 seconds East 1133.37-feet along the United States Harbor Line to a point, thence North 60 degrees 54 minutes 20 seconds West 1142.46-feet to a point on the Easterly line of River Road; thence South 28 degrees 55 minutes 40 seconds West 797.75-feet along the Easterly line of River Road to the point of beginning.
2. All that part of Fractional Section 5, T. 4 S., R. 11 E., City of Riverview, Wayne Co., Mich., described as: Beginning at a point in the S'ly line of "The Firestone

Tire & Rubber Company" property which point is distant N. $60^{\circ}54'20''$ W. 235.44-feet along the S'ly. line of said property from the W'ly. line of Jefferson Ave. (River Road) 106-ft. wide, thence along the S'ly line of said property N. $60^{\circ}54'20''$ W. 425.55-ft; thence on the curve to the right, radius 266.36-ft., a distance of 117.71-ft., chord of said curve bears N. $48^{\circ}14'42''$ W. 116.76-ft.; thence N. $54^{\circ}24'55''$ E. 22.00-ft., thence on the curve to the left, radius 244.36-ft a distance of 107.99-ft., chord of said curve bears S. $48^{\circ}14'42''$ E. 107.11-ft.; thence S. $60^{\circ}54'20''$ E. parallel to and 22-ft. N'ly of said S'ly line 236.93 ft.; thence on a curve to the right, radius 731.44-ft., a distance of 127.66-ft., chord of said curve bears S. $55^{\circ}54'20''$ E. 127.50-ft.; thence S. $50^{\circ}54'20''$ E. 62.56-ft. to the point of beginning.

3. All that part of Fractional Section 5, T. 4 S., R. 11 E., City of Riverview, Wayne Co., Michigan, described as: Beginning at a point in the E'ly line of D.T. & I. R. R. right-of-way which point is distant N. $60^{\circ}54'20''$ W. 660.99-ft. and on the curve to the right radius 266.36-ft a distance of 121.06-

ft., chord of said curve bears N. $47^{\circ}53'05''$ W. 120.02-ft., and N. $34^{\circ}51'50''$ W. 15.85-ft., and on the curve to the right, radius 298.94-ft., a distance of 127.69-ft., chord of said curve bears N. $22^{\circ}37'36''$ W. 126.74-ft. from the intersection of the W'ly line of Jefferson Ave. (River Road) 106-ft. wide with the S'ly line of "The Firestone Tire & Rubber Company" property, thence along the E'ly line of said D.T. & I.R.R. right-of-way N. $14^{\circ}40'20''$ E. 68.62-ft.; thence on the curve to the left radius 276.94-ft., a distance of 177.91-ft., a chord of said curve bears S. $15^{\circ}49'20''$ E. 174.87-ft., thence S. $55^{\circ}46'26''$ W. 22.00-ft; thence on the curve to the right; radius of 298.94-ft., a distance of 124.36 ft., chord of said curve bears N. $22^{\circ}18'27''$ W. 123.48-ft. to the point of beginning.

4. All that part of Fractional Section 5, T. 4 S., R. 11 E., City of Riverview, Wayne Co., Michigan described as: Beginning at a point in the Westerly line of Jefferson Ave. (River Road) 106-ft. wide, which point is distant S. $28^{\circ}55'40''$ W. 1103.65-ft. along the W'ly line of said Jefferson Ave. from a concrete monument at the S'ly property line of the Pennsylvania Salt Mfg. Co.;

thence along the W'ly. line of said Jefferson Ave. S. $28^{\circ}55'40''$ W. 41.00-ft.; thence N. $60^{\circ}54'20''$ W. 66.03-ft.; thence on the curve to the right, radius 727.78-ft.; a distance of 127.04-ft., chord of said curve bears N. $55^{\circ}54'20''$ W. 126.86-ft., thence N. $50^{\circ}54'20''$ 110.25-ft., thence on a curve to the left radius 709.44-ft. a distance of 120.97-ft., chord of said curve bears N. $55^{\circ}46'38''$ W. 120.82-ft., thence along the N'ly line of the above described property S. $60^{\circ}54'20''$ E. 421.21-ft., to the point of beginning.

NOW, THEREFORE, the following restrictive covenants are executed by BASF Wyandotte Corporation to assure the care, maintenance and monitoring of the premises for the safety of the people of the United States and of the State of Michigan and the protection of the natural resources and the environment:

1. The monitoring, sampling, inspection, and maintenance requirements of Section V. of the Consent Decree will be accomplished in accordance with the terms of the Consent Decree.
2. The requirements relating to transfer or conveyance and use of the

premises set forth in Section XII.
of the Consent Decree will be observed in accordance with the terms of the Consent Decree.

These Restrictive Covenants shall run with the land and be binding upon BASF Wyandotte Corporation and its successors and assigns, for the period covered by the Consent Decree, which is thirty (30) years from the date of entry of the Consent Decree by the United States District Court, said date being _____, 1984, unless extended or sooner terminated by the parties or by the Court.

Any governmental agency adversely affected by any violation of these restrictions may enforce them by legal action in a court of competent jurisdiction.

The parties agree and consent hereto.

UNITED STATES OF AMERICA
Plaintiff,

FRANK J. KELLY, et al.
Intervenor-Plaintiffs

BASF WYANDOTTE CORPORATION,
a Michigan corporation,

Defendant

FRANK J. KELLEY
Attorney General

STEWART H. FREEMAN
Assistant Attorney General
Environmental Protection Division

ELIZABETH L. VALENTINE
Assistant Attorney General
Environmental Protection Division

By: _____

Its _____

and by

FISCHER, FRANKLIN, FORD, SIMON
& HOGG

By: _____
William C. Potter, Jr.

and by: _____
Thomas M. Woods

Attorneys for Defendant
BASF Wyandotte Corporation

that notice of the proposed Consent Decree be given to the public and that the public shall have at least thirty (30) days to make any comments.

XVII. SEVERABILITY

It is the intent of the parties hereto that the provisions of this Consent Decree shall be severable, and should any provision be declared by a court of competent jurisdiction to be inconsistent with State or Federal law, and therefore unenforceable, the remaining clauses shall remain in full force and effect.

XVIII. RETENTION OF JURISDICTION

This Court specifically retains jurisdiction over the subject matter and the parties for the purpose of enforcing or construing or modifying the provisions of this Consent Decree.

RALPH B. GUY, JR.
United States District Judge

Dated and Entered: